

114TH CONGRESS
1ST SESSION

S. 2425

AN ACT

To amend titles XVIII and XIX of the Social Security Act to improve payments for complex rehabilitation technology and certain radiation therapy services, to ensure flexibility in applying the hardship exception for meaningful use for the 2015 EHR reporting period for 2017 payment adjustments, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Patient Access and
5 Medicare Protection Act”.

6 **SEC. 2. NON-APPLICATION OF MEDICARE FEE SCHEDULE**

7 **ADJUSTMENTS FOR WHEELCHAIR ACCES-**
8 **SORIES AND SEAT AND BACK CUSHIONS**
9 **WHEN FURNISHED IN CONNECTION WITH**
10 **COMPLEX REHABILITATIVE POWER WHEEL-**
11 **CHAIRS.**

12 (a) NON-APPLICATION.—

13 (1) IN GENERAL.—Notwithstanding any other
14 provision of law, the Secretary of Health and
15 Human Services shall not, prior to January 1, 2017,
16 use information on the payment determined under
17 the competitive acquisition programs under section
18 1847 of the Social Security Act (42 U.S.C. 1395w–
19 3) to adjust the payment amount that would other-
20 wise be recognized under section 1834(a)(1)(B)(ii)
21 of such Act (42 U.S.C. 1395m(a)(1)(B)(ii)) for
22 wheelchair accessories (including seating systems)
23 and seat and back cushions when furnished in con-
24 nection with Group 3 complex rehabilitative power
25 wheelchairs.

(2) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary may implement this subsection by program instruction or otherwise.

4 (b) GAO STUDY AND REPORT.—

5 (1) STUDY.—

23 (iii) A comparison of the payment
24 amount under the competitive acquisition
25 program under section 1847 of such Act

(42 U.S.C. 1395w-3) with the payment amount that would otherwise be recognized under section 1834 of such Act (42 U.S.C. 1395m), including beneficiary cost sharing, for such wheelchair accessories and seat and back cushions.

12 (v) Other areas determined appro-
13 priate by the Comptroller General.

(B) GROUPS DESCRIBED.—The following groups are described in this subparagraph:

24 (iii) Other wheelchair accessories and
25 seat and back cushions furnished with ei-

1 ther power wheelchairs described in clause
2 (i) or (ii).

3 (2) REPORT.—Not later than June 1, 2016, the
4 Comptroller General of the United States shall sub-
5 mit to Congress a report containing the results of
6 the study conducted under paragraph (1), together
7 with recommendations for such legislation and ad-
8 ministrative as the Comptroller General determines
9 to be appropriate.

10 **SEC. 3. TRANSITIONAL PAYMENT RULES FOR CERTAIN RA-**
11 **DIATION THERAPY SERVICES UNDER THE**
12 **MEDICARE PHYSICIAN FEE SCHEDULE.**

13 (a) IN GENERAL.—Section 1848 of the Social Secu-
14 rity Act (42 U.S.C. 1395w–4) is amended—

15 (1) in subsection (b), by adding at the end the
16 following new paragraph:

17 “(11) SPECIAL RULE FOR CERTAIN RADIATION
18 THERAPY SERVICES.—The code definitions, the work
19 relative value units under subsection (c)(2)(C)(i),
20 and the direct inputs for the practice expense rel-
21 ative value units under subsection (c)(2)(C)(ii) for
22 radiation treatment delivery and related imaging
23 services (identified in 2016 by HCPCS G-codes
24 G6001 through G6015) for the fee schedule estab-
25 lished under this subsection for services furnished in

1 2017 and 2018 shall be the same as such definitions,
2 units, and inputs for such services for the fee
3 schedule established for services furnished in 2016.”;
4 and

5 (2) in subsection (c)(2)(K), by adding at the
6 end the following new clause:

7 “(iv) TREATMENT OF CERTAIN RADI-
8 ATION THERAPY SERVICES.—Radiation
9 treatment delivery and related imaging
10 services identified under subsection (b)(11)
11 shall not be considered as potentially
12 misvalued services for purposes of this sub-
13 paragraph and subparagraph (O) for 2017
14 and 2018.”.

15 (b) REPORT TO CONGRESS ON ALTERNATIVE PAY-
16 MENT MODEL.—Not later than 18 months after the date
17 of the enactment of this Act, the Secretary of Health and
18 Human Services shall submit to Congress a report on the
19 development of an episodic alternative payment model for
20 payment under the Medicare program under title XVIII
21 of the Social Security Act for radiation therapy services
22 furnished in nonfacility settings.

1 **SEC. 4. ENSURING FLEXIBILITY IN APPLYING HARDSHIP**

2 **EXCEPTION FOR MEANINGFUL USE FOR 2015**

3 **EHR REPORTING PERIOD FOR 2017 PAYMENT**

4 **ADJUSTMENTS.**

5 (a) **ELIGIBLE PROFESSIONALS.**—Section
6 1848(a)(7)(B) of the Social Security Act (42 U.S.C.
7 1395w–4(a)(7)(B)) is amended, in the first sentence, by
8 inserting “(and, with respect to the payment adjustment
9 under subparagraph (A) for 2017, for categories of eligible
10 professionals, as established by the Secretary and posted
11 on the Internet website of the Centers for Medicare &
12 Medicaid Services prior to December 15, 2015, an applica-
13 tion for which must be submitted to the Secretary by not
14 later than March 15, 2016)” after “case-by-case basis”.

15 (b) **ELIGIBLE HOSPITALS.**—Section
16 1886(b)(3)(B)(ix) of the Social Security Act (42 U.S.C.
17 1395ww(b)(3)(B)(ix)) is amended—

18 (1) in the first sentence of subclause (I), by
19 striking “(n)(6)(A)” and inserting “(n)(6)”; and
20 (2) in subclause (II), in the first sentence, by
21 inserting “(and, with respect to the application of
22 subclause (I) for fiscal year 2017, for categories of
23 subsection (d) hospitals, as established by the Sec-
24 retary and posted on the Internet website of the
25 Centers for Medicare & Medicaid Services prior to
26 December 15, 2015, an application for which must

1 be submitted to the Secretary by not later than
2 April 1, 2016)" after "case-by-case basis".

3 (c) IMPLEMENTATION.—Notwithstanding any other
4 provision of law, the Secretary of Health and Human
5 Services shall implement the provisions of, and the amend-
6 ments made by, subsections (a) and (b) by program in-
7 struction, such as through information on the Internet
8 website of the Centers for Medicare & Medicaid Services.

9 SEC. 5. MEDICARE IMPROVEMENT FUND.

10 Section 1898(b)(1) of the Social Security Act (42
11 U.S.C. 1395iii(b)(1)) is amended by striking
12 “\$5,000,000” and inserting “\$0”.

13 SEC. 6. STRENGTHENING MEDICAID PROGRAM INTEGRITY

14 **THROUGH FLEXIBILITY.**

15 Section 1936 of the Social Security Act (42 U.S.C.
16 1396u-6) is amended—

17 (1) in subsection (a), by inserting “, or other-
18 wise.” after “entities”; and

19 (2) in subsection (e)—

(B) in paragraph (3), by striking “by 100” and inserting “by 100, or such number as determined necessary by the Secretary to carry out the Program.”

5 SEC. 7. ESTABLISHING MEDICARE ADMINISTRATIVE CON-

6 TRACTOR ERROR REDUCTION INCENTIVES.

7 (a) IN GENERAL.—Section 1874A(b)(1)(D) of the
8 Social Security Act (42 U.S.C. 1395kk–1(b)(1)(D)) is
9 amended—

10 (1) by striking "QUALITY.—The Secretary" and
11 inserting "QUALITY.—

14 (2) by inserting after clause (i), as added by
15 paragraph (1), the following new clauses:

16 “(ii) IMPROPER PAYMENT RATE RE-
17 DUCTION INCENTIVES.—The Secretary
18 shall provide incentives for medicare ad-
19 ministrative contractors to reduce the im-
20 proper payment error rates in their juris-
21 dictions.

1 incentives to medicare administrative
2 contractors that either reduce the im-
3 proper payment rates in their jurisdic-
4 tions to certain thresholds, as deter-
5 mined by the Secretary, or accomplish
6 tasks, as determined by the Secretary,
7 that further improve payment accu-
8 racy; and

9 “(II) may include substantial re-
10 ductions in award fee payments under
11 cost-plus-award-fee contracts, for
12 medicare administrative contractors
13 that reach an upper end improper
14 payment rate threshold or other
15 threshold as determined by the Sec-
16 retary, or fail to accomplish tasks, as
17 determined by the Secretary, that fur-
18 ther improve payment accuracy.”.

19 (b) EFFECTIVE DATE.—

20 (1) IN GENERAL.—The amendments made by
21 subsection (a) shall apply to contracts entered into
22 or renewed on or after the date that is 3 years after
23 the date of enactment of this Act.

24 (2) APPLICATION TO EXISTING CONTRACTS.—

25 In the case of contracts in existence on or after the

1 date of the enactment of this Act and that are not
2 subject to the effective date under paragraph (1),
3 the Secretary of Health and Human Services shall,
4 when appropriate and practicable, seek to apply the
5 incentives provided for in the amendments made by
6 subsection (a) through contract modifications.

7 **SEC. 8. STRENGTHENING PENALTIES FOR THE ILLEGAL**
8 **DISTRIBUTION OF A MEDICARE, MEDICAID,**
9 **OR CHIP BENEFICIARY IDENTIFICATION OR**
10 **BILLING PRIVILEGES.**

11 Section 1128B(b) of the Social Security Act (42
12 U.S.C. 1320a–7b(b)) is amended by adding at the end the
13 following:

14 “(4) Whoever without lawful authority know-
15 ingly and willfully purchases, sells or distributes, or
16 arranges for the purchase, sale, or distribution of a
17 beneficiary identification number or unique health
18 identifier for a health care provider under title
19 XVIII, title XIX, or title XXI shall be imprisoned
20 for not more than 10 years or fined not more than
21 \$500,000 (\$1,000,000 in the case of a corporation),
22 or both.”.

1 SEC. 9. IMPROVING THE SHARING OF DATA BETWEEN THE
2 **FEDERAL GOVERNMENT AND STATE MED-**
3 **ICAIID PROGRAMS.**

4 (a) IN GENERAL.—The Secretary of Health and
5 Human Services (in this section referred to as the “Sec-
6 retary”) shall establish a plan to encourage and facilitate
7 the participation of States in the Medicare-Medicaid Data
8 Match Program (commonly referred to as the “Medi-Medi-
9 Program”) under section 1893(g) of the Social Security
10 Act (42 U.S.C. 1395ddd(g)).

11 (b) PROGRAM REVISIONS TO IMPROVE MEDI-MEDI
12 DATA MATCH PROGRAM PARTICIPATION BY STATES.—
13 Section 1893(g)(1)(A) of the Social Security Act (42
14 U.S.C. 1395ddd(g)(1)(A)) is amended—

15 (1) in the matter preceding clause (i), by insert-
16 ing “or otherwise” after “eligible entities”;
17 (2) in clause (i)—

17 (2) in clause (i)—

18 (A) by inserting

18 (II) by inserting to review claims data
19 after “algorithms”; and

20 (B) by striking “service, time, or patient”
21 and inserting “provider, service, time, or pa-
22 tient”;

23 (3) in clause (ii)—

24 (A) by inserting “to investigate and re-
25 cover amounts with respect to suspect claims”
26 after “appropriate actions”; and

(B) by striking “; and” and inserting a semicolon;

(5) by adding at the end the following new clause:

7 “(iv) furthering the Secretary’s de-
8 sign, development, installation, or enhance-
9 ment of an automated data system archi-
10 tecture—

11 “(I) to collect, integrate, and as-
12 sess data for purposes of program in-
13 tegrity, program oversight, and ad-
14 ministration, including the Medi-Medi
15 Program; and

“(II) that improves the coordination of requests for data from States.”.

19 (c) PROVIDING STATES WITH DATA ON IMPROPER
20 PAYMENTS MADE FOR ITEMS OR SERVICES PROVIDED TO
21 DUAL ELIGIBLE INDIVIDUALS.—

1 Act access to relevant data on improper or fraudulent
2 payments made under the Medicare program
3 under title XVIII of the Social Security Act (42
4 U.S.C. 1395 et seq.) for health care items or services
5 provided to dual eligible individuals.

6 (2) DUAL ELIGIBLE INDIVIDUAL DEFINED.—In
7 this section, the term “dual eligible individual”
8 means an individual who is entitled to, or enrolled
9 for, benefits under part A of title XVIII of the So-
10 cial Security Act (42 U.S.C. 1395c et seq.), or en-
11 rolled for benefits under part B of title XVIII of
12 such Act (42 U.S.C. 1395j et seq.), and is eligible
13 for medical assistance under a State plan under title
14 XIX of such Act (42 U.S.C. 1396 et seq.) or under
15 a waiver of such plan.

Passed the Senate December 18, 2015.

Attest:

Secretary.

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